



## **BEP FACT SHEET**

### **Guidance on Public Comment at Time of Rule Adoption**

**issued: April 5, 2001**

**contact: (207)-287-2811 or 287-2452**

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#### **I. Statutory Reference**

Rulemaking by the Board of Environmental Protection is governed by the Maine Administrative Procedure Act, 5 M.R.S.A. section 8051 et seq.

In addition, 38 M.R.S.A. section 341-D, subsection 1-B Rulemaking states in part, “Notwithstanding Title 5, chapter 375, subchapter II, the board shall accept and consider additional public comment on a proposed rule following the close of the formal rule-making comment period at a meeting that is not a public hearing only if the additional public comment is directly related to comments received during the formal rule-making comment period or is in response to changes in the proposed rule. Public notice of the meeting must comply with Title 1, section 406 and state that the board will accept additional public comment on the proposed rule at that meeting.”

#### **II. Procedure Before the Board**

In accordance with 38 M.R.S.A. section 341-D, subsection 1-B, the Board of Environmental Protection will receive additional public comment on a proposed rule at the meeting at which the proposed rule is scheduled for final action by the Board. In order to ensure that the comment received at that meeting is limited as specified in the statute, that all persons are aware of the information before the Board for its consideration, and that the meeting proceeds in an efficient manner, the procedure for receiving public comment on a proposed rule at the time of adoption is as follows:

- A. Department staff will introduce the rule proposed for adoption.
- B. Board members may at any time question staff on any aspect of the proposed rule.
- C. Following staff presentation, Board members will receive reasonable comment from the public prior to the Board’s deliberation and vote. Members of the public wishing to address the Board will be asked to state their name, residence, and affiliation, if applicable. Comments must be presented orally, except by leave of the Chair. The opportunity for comment afforded at the time of adoption is not intended to allow for new comment on the rule, but is confined to comment received during the formal comment period or comment on changes made in the proposed rule since the formal comment period. Accordingly, in order to avoid the introduction of comment that is not permissible under the statute, those commenting should be prepared to show that their comments comply with this requirement.

- D. Depending upon the number of persons wishing to comment, the Chair may limit time for comments to ensure that all those wishing to address the Board have an opportunity to do so and that the Board has sufficient time to deliberate before making its decision on the proposed rule. The Chair will not allow comment that is irrelevant, unduly repetitious, or not permissible under the statute.

ADOPTED ON \_\_\_\_\_ DAY OF \_\_\_\_\_, 2001  
BOARD OF ENVIRONMENTAL PROTECTION

By: \_\_\_\_\_  
John D. Tewhey, Chair

**If you have questions on this procedure, please call the contact person for the specific rule under consideration or the Board's Executive Analyst. The Executive Analyst may be reached by calling (207) 287-2452.**

**Note: The Department provides this FACT SHEET for general guidance only; it is not intended to be legally binding or to be used as a legal reference.**